

May also see file on AB877



## Remarks for Assembly Committee on Criminal Justice

Regarding AB 876 & AB 877 – HR 218

By Representative Donald Friske

February 27, 2007

Thank you Chairman Kleefisch and Committee members. I appreciate your hearing today and scheduling this legislation for your consideration.

In 2004, Congress passed House Resolution 218 providing an exemption for qualified law enforcement officers from any State prohibition of carrying concealed weapons.

In late 2004, then-Attorney General Peg Lautenschlager issued a memo declaring statewide training & qualification standards necessary for implementation of HR 218 in Wisconsin. Early the next year, legislative council issued an opinion contradicting AG Lautenschlager.

A chilling effect, however, was created by a letter to local law enforcement agencies stating each agency could be assuming liability for any harm that could result from a qualified retiree misusing their ID card or concealed weapon. While a select few local law enforcement agencies, including the Lincoln County Sheriffs Department, have begun issuing already, most are waiting for this legislation to eliminate liability to their agencies.

In an effort to iron out the discrepancy from the two opposing legal memos and eliminate potential liability, I have crafted AB 876 and AB 877.

AB 876 creates a chapter 20 mechanism for fees paid by retired-Wisconsin-DOJ-officers and retired-federal-officers to be used by DOJ to cover the costs of qualification tests and the IDs. A statutory mechanism is not necessary for local agencies to collect fees from their retirees.

AB 877 codifies federal law HR 218 into Wisconsin statutes and provides immunity-from-liability to State and local agencies issuing IDs to qualified retirees as authorized by the federal government.

A qualified retiree under HR 218 meets the following conditions:

- The officer retired in good standing for reasons other than mental instability;
- The retired officer served an aggregate of 15 years (this is tied to federal code requirement, if the code changes, Wisconsin's rule would do so automatically);
- The officer has a non-forfeitable retirement benefit from the agency retired from;
- Federal law does not prohibit the retiree from possessing a firearm (i.e. felon or domestic abuse prohibition)

A qualified retiree will only be allowed to carry a weapon they qualified with the issuing law enforcement agency. Further, a qualified retiree will not be allowed to carry concealed if:

- He/she is not carrying his/her certification card; or
- The firearm is prohibited; or
- A firearm silencer is attached to the firearm; or
- He/she is under the influence (defined in SS 939022 (42) of an intoxicant; or
- He/she is prohibited under federal law from possessing a firearm.

Thank you for your consideration of this legislation. I am happy to take any questions you may have.



One Hundred Eighth Congress  
of the  
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,  
the twentieth day of January, two thousand and four*

An Act

To amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Law Enforcement Officers Safety Act of 2004".

**SEC. 2. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS  
FROM STATE LAWS PROHIBITING THE CARRYING OF  
CONCEALED FIREARMS.**

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

**"§926B. Carrying of concealed firearms by qualified law  
enforcement officers**

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) is authorized by the agency to carry a firearm;

"(3) is not the subject of any disciplinary action by the agency;

"(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

"(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

"(6) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

"(e) As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of the National Firearms Act);

"(2) any firearm silencer (as defined in section 921 of this title); and

"(3) any destructive device (as defined in section 921 of this title)."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified law enforcement officers."

**SEC. 3. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.**

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

**"§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers**

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified retired law enforcement officer' means an individual who—

"(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

"(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

"(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

"(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

"(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

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"(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;

"(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

"(7) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is—

"(1) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

"(2)(A) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and

"(B) a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

"(e) As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of the National Firearms Act);

"(2) any firearm silencer (as defined in section 921 of this title); and

"(3) a destructive device (as defined in section 921 of this title)."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:

"926C. Carrying of concealed firearms by qualified retired law enforcement officers."

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*






# CORRESPONDENCE/MEMORANDUM

# DEPARTMENT OF JUSTICE

Date: November 17, 2004

To: Governor James E. Doyle  
Senate Majority Leader Dale Schultz  
Senate Minority Leader Judy Robson  
Assembly Majority Leader Mike Huebsch  
Assembly Minority Leader Jim Kreuser

From: Peggy A. Lautenschlager   
Attorney General

Subject: Law Enforcement Officers Safety Act of 2004

## INTRODUCTION

On July 22, 2004, President Bush signed into law the Law Enforcement Officers Safety Act of 2004 ("the Act"), H.R. 218, 108th Cong. (2004), codified at 18 U.S.C. §§ 926B-926C. On its face, this law allows qualified active and retired law enforcement officers to carry concealed firearms anywhere in the United States, notwithstanding state or local laws to the contrary. Since the Act went into effect, the Wisconsin Department of Justice ("DOJ") has received many questions about it from law enforcement agencies and from active and retired officers both in Wisconsin and from other states. I have, therefore, instructed DOJ staff to review the Act in regard to the questions we have confronted and determine what state government officials would need to do in order to facilitate implementation of the Act in Wisconsin. As a result of that review, I have concluded that state legislative action is needed before the Act can be effectively implemented here. The purpose of this memorandum is to report my conclusions to the leadership of Wisconsin's legislative and executive branches.

## SUMMARY OF THE ACT

First I will briefly summarize the Act. Under it, active and retired law enforcement officers who meet the statutory qualifications and possess the credentials required by the statute are exempt from all state and local laws that prohibit the carrying of concealed firearms and thus are authorized to carry concealed firearms anywhere in the United States. *See* 18 U.S.C. §§ 926B(a) and 926C(a). The Act provides only two general exceptions to that authorization. First, states may still permit private parties to restrict the possession of concealed firearms on their own property. *See* 18 U.S.C. §§ 926B(b)(1) and 926C(b)(1). Second, states may still restrict the possession of concealed firearms on state or local government property. *See* 18 U.S.C. §§ 926B(b)(2) and 926C(b)(2). In addition, the Act does not authorize the

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carrying of machine guns, silencers, or explosive devices. *See* 18 U.S.C. §§ 926B(e) and 926C(e).

In order to qualify to carry concealed firearms under the Act, an active law enforcement officer must be an employee of a government agency with criminal law enforcement and arrest powers, must be authorized to carry a firearm by his or her employing agency, must meet that agency's standards for regularly qualifying to use a firearm, and must not be the subject of any disciplinary action by the agency. *See* 18 U.S.C. § 926B(c)(1)-(4). A retired officer must have retired in good standing, other than for reasons of mental instability, after at least 15 years aggregate service or due to a service-related disability, must have a non-forfeitable right to benefits under the retirement plan of the formerly employing agency, and must annually meet the state's firearm training and qualification standards for active officers. *See* 18 U.S.C. § 926C(c)(1)-(5). In addition, neither an active nor a retired officer may carry a concealed firearm under the Act if he or she is prohibited by federal law from receiving a firearm, or while under the influence of alcohol or any other intoxicating or hallucinatory drug. *See* 18 U.S.C. §§ 926B(c)(5)-(6) and 926C(c)(6)-(7).

In addition to meeting the above qualifications, an active law enforcement officer must carry photographic identification issued by his or her employing agency and a retired officer must carry photographic identification issued by the agency from which he or she retired. *See* 18 U.S.C. §§ 926B(d) and 926C(d). Furthermore, a retired officer also must carry certification indicating that he or she has met applicable firearm training and qualification standards within the most recent year. This certification can take either of two forms: (a) certification issued by the agency from which the officer retired indicating that, within the previous year, he or she has been tested or otherwise found by the agency to meet that agency's firearm qualification standards for active law enforcement officers; or (b) certification issued by the retired officer's state of residence indicating that, within the previous year, he or she has been tested or otherwise found by the state to meet the state's firearm qualification standards for active officers. *See* 18 U.S.C. § 926C(d)(1)-(2).

## QUESTIONS ARISING UNDER THE ACT

### I. CURRENT AUTHORITY UNDER THE ACT TO CARRY CONCEALED FIREARMS IN WISCONSIN

The questions about the Act that DOJ has received fall into three broad categories. First, there are questions about whether the Act currently authorizes active and retired law enforcement officers—both from Wisconsin and from other states—to carry concealed firearms in Wisconsin. In my opinion, the answer to these questions is that the Act's preemption of state and local concealed carry prohibitions is self-executing and can take effect without any action by state or

local officials, as long as the individual police officer or retiree in question meets all the requirements of the Act, including possession of the required credentials. Whether a particular officer or retiree meets all of those requirements under a given set of circumstances is a fact-specific question that must be addressed on an individualized basis by those law enforcement officials who have primary authority for enforcing Wisconsin's state and local restrictions on the carrying of concealed weapons.

## II. CREDENTIAL REQUIREMENTS UNDER THE ACT

Second, there are questions about how active and retired law enforcement officers who live in Wisconsin can obtain the credentials they need in order to be allowed to carry a concealed firearm under the federal Act. Currently, in Wisconsin, neither the state nor any individual law enforcement agency has a mechanism in place for providing all of the credentials contemplated by the Act.

### A. Photographic Identification Requirement

The situation is fairly simple with regard to the requirement that both active and retired officers possess photographic identification issued either by their current employing agency (for active officers) or by their former employing agency (for retirees). *See* 18 U.S.C. §§ 926B(d) and 926C(d). Law enforcement agencies in Wisconsin should not need any special authorization to simply issue such photographic identification to current and former employees. Current state law thus allows this part of the Act to be implemented in Wisconsin, as long as individual law enforcement agencies are willing to issue the photographic identification.

### B. Training and Certification Requirement for Retired Officers

The situation is more complex regarding the requirement that a *retired* officer possess certification—either from the state or from his or her former employing agency—indicating that he or she has met firearm training and qualification standards for active officers within the most recent year. *See* 18 U.S.C. § 926C(d)(1)-(2). In my opinion, Wisconsin state law currently does not give state or local officials the authority they need either to establish appropriate firearm standards for retired individuals or to evaluate or certify the qualifications of such civilians under those standards.

#### 1. Firearm Training and Qualification Standards for Active and Retired Officers

State training and certification standards for active law enforcement officers in Wisconsin are established and administered by the Wisconsin Law Enforcement Standards Board ("LESB"). *See* Wis. Stat. § 165.85. Currently, in order to be certified as a law enforcement

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officer by LESB, a recruit must complete a basic training program that incorporates a 48-hour block of instruction on firearms, the components of which include classroom lectures, activity-centered practical exercises, competency checklists, written examinations, and scenario-based evaluations. A significant element of the content of this curriculum addresses tactical response and deadly force decision-making for police officers. Beyond these recruit training requirements, however, Wisconsin currently has no uniform statewide standard for continuing annual firearm training or qualification. Such continuing firearm standards are the responsibility of the employing agency. Each agency in Wisconsin is required to provide a minimum of 24 hours of in-service training to each officer. Firearms qualification is included within that mandatory training as determined by the respective agency. At present, therefore, at the point at which the federal Act contemplates that retired officers will annually meet state firearm training and qualification standards for active officers, there is currently a void in Wisconsin law.

In my opinion, the existing statutory authority of LESB is not sufficient to enable that body to effectively fill that void. Wisconsin Stat. § 165.85(3)(d), currently authorizes LESB, among other things, to "recommend minimum curriculum requirements for recertification and advanced courses and programs, in schools operated by or for this state or any political subdivisions of the state for the specific purpose of training . . . law enforcement officers . . . in . . . subjects such as . . . firearms." Under that provision, LESB could establish a *recommended* state standard for annual firearm training and qualification for active officers, but it lacks power to create a mandatory standard.

In an effort to work constructively toward the implementation of the Act in Wisconsin, LESB has begun the process of developing such a recommended state standard for annual firearm training and qualification for active law enforcement officers. An advisory committee on such a standard was convened and, on September 8, 2004, LESB discussed an outline of a proposed annual standard and directed its staff in DOJ's Training and Standards Bureau to solicit reactions to that proposal from law enforcement agencies and associations throughout the state. That consultation process is currently under way.

Even if such a recommended standard were eventually created by LESB, however, it still would not provide an adequate basis for implementing the Act's requirements for the training and certification of retired officers. First, it is not certain that such a non-mandatory standard would constitute a state firearm training and qualification standard within the meaning of the federal Act. Second, because LESB requires all of its training and certification standards to be geared toward the highest levels of educational expertise and law enforcement professionalism, any firearm standard LESB might establish for active officers would inevitably include detailed, scenario-based instruction and evaluation covering the kinds of tactical response and deadly force decision-making issues faced by active police officers in the course of carrying out their legal and professional duties. Such professionally-oriented training may not be appropriate for retired individuals who no longer have law enforcement powers and such a program is likely to

be more burdensome than would be a program better adapted to the specific needs of civilian retirees. Under current state law, however, LESB lacks authority to tailor its training and qualification standards to the needs of civilians who are not active law enforcement officers.

## 2. Annual Certification of Retired Officers

Even if a satisfactory firearm training and qualification standard existed, current state law is still inadequate with respect to the federal Act's requirement that either the state or a retiree's former employing agency annually certify that the retiree has been found to meet that standard. *See* 18 U.S.C. § 926C(d)(1)-(2). Wisconsin state law currently does not give any state or local official or entity the power to apply professional law enforcement standards to retired individuals who are not active law enforcement officers or to evaluate or certify the firearm training and qualifications of such civilians. LESB has statutory authority to issue certifications only to active law enforcement officers. *See* Wis. Stat. § 165.85(3)(c). Before the federal Act can be properly implemented in Wisconsin, the Legislature must give some state or local official or entity the power to evaluate and certify the firearm training and qualifications of retired law enforcement officers.

## C. Funding and Resource Issues

Also of concern are funding and resources for training retired officers, evaluating their firearm qualifications, certifying their compliance with applicable standards, and designing and producing appropriate forms for documenting their certification. The federal Act provides that retirees are to meet state training and qualification requirements at their own expense, *see* 18 U.S.C. § 926C(c)(5), but no state or local official or entity in Wisconsin currently possesses statutory authority to collect a fee for training or qualification services, to provide the equipment and personnel that may be needed to perform those services, or to expend any funds for such purposes. In addition, funding and resources may be needed for background checks to ensure that individuals who retired from law enforcement prior to the enactment of the Act meet its basic requirements (e.g. retired in good standing, no mental instability, at least 15 years of service, not prohibited by federal law from receiving a firearm, etc.). *See* 18 U.S.C. § 926C(c). State legislative action addressing these issues may be desirable.

## III. POTENTIAL LIABILITY OF STATE OR LOCAL GOVERNMENT

Questions have arisen regarding civil liability flowing from conduct by officials adhering to the provisions of the Act. Since the Act requires a certification of training and presumably assumes some assessment of capability of the individual to have a concealed weapon, the main question concerning liability is whether state or local government officials or entities could be exposed to potential legal liability for actions they might perform in the course of implementing

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the Act. Additionally, there is currently no database or other means by which local police in Wisconsin could validate the concealed-carry credentials presented by an individual claiming to be an active or retired officer from another state. As a result, Wisconsin police might have occasion to arrest such an individual for carrying a concealed weapon in violation of state or local law. If such an arrest turned out to be mistaken, the arresting authority could be exposed to liability.

Third, there is the concern for liability for either the active duty or retired officer who chooses to carry a concealed weapon. The Act does not speak to a broadened police authority. The Act simply provides the ability to carry a concealed weapon when the proper credentials are obtained. As such, if an active duty officer chooses to use a weapon outside his or her jurisdiction, or if a retired officer who has no police authority whatsoever uses his or her weapon, such conduct could expose the person using the weapon to civil or criminal charges.

Given the myriad factual scenarios such circumstances may present, I offer no legal analysis of the merits of any such potential claims. I merely acknowledge the possibility of liability arising in these contexts as many have inquired on that point.

## CONCLUSION

In light of the above considerations, I would advise the leadership of Wisconsin's legislative and executive branches, in order to effectively implement the Law Enforcement Officers Safety Act in Wisconsin, to consider legislative action in the following areas:

1. Legislation authorizing appropriate state or local officials to establish annual firearm training and qualification standards for retired law enforcement officers who live in Wisconsin.
2. Legislation authorizing appropriate state or local officials to annually evaluate and certify firearm training and qualifications of retired law enforcement officers under the applicable standards.
3. Legislation authorizing appropriate state or local officials to collect any fees and to make any expenditures that may be necessary to conduct background checks and provide photographic identification and firearm training and certification services to retired law enforcement officers.

I look forward to continuing to work with you on a constructive solution to these matters.




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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: SENATOR DAVID ZIEN

FROM: Ronald Sklansky, Senior Staff Attorney 

RE: Carrying of Concealed Firearms by Retired Law Enforcement Officers

DATE: May 19, 2005

This memorandum, prepared at your request, responds to a question you have raised regarding recently enacted federal legislation relating to the carrying of concealed firearms by retired law enforcement officers. Specifically, you have asked whether a local law enforcement agency needs specific statutory authority to offer federally required training to a retired law enforcement officer who seeks to carry a concealed firearm.

Federal law preempts state prohibitions on the carrying of concealed firearms by retired law enforcement officers if certain conditions are met. One of these conditions is that during the most recent 12-month period, the officer has met, at the expense of the officer, the state's standards for training and qualification for active law enforcement officers to carry firearms. An additional requirement is that the retired officer carries a photographic identification issued by the agency from which the officer retired from service that indicates that the retired officer has, not recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm. [See 18 U.S.C. s. 926C (c) (5) and (d) (1).]

There appear to be no statutory obstacles preventing a local law enforcement agency from providing appropriate training and photographic identification to an individual who has retired from service at that agency. In addition, it appears that there is no statutory restriction on the local law enforcement agency imposing a fee for these services in accordance with the federal provision that a retired law enforcement officer obtain these credentials at his or her expense. In other words, a local law enforcement agency may participate in this process at its discretion.

If I can be of any further assistance in this matter, please feel free to contact me.

RS:jal







STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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**Prepared Remarks of Wisconsin Attorney General J.B. Van Hollen  
on Legislation Enhancing Retired Law Enforcement  
Officers' Ability to Carry Firearms**

**Assembly Criminal Justice Committee  
Wednesday, February 27, 2008**

Chairman Kleefisch, members of the Committee on Criminal Justice, thank you for the opportunity to testify today on Assembly Bill 876 and Assembly Bill 877.

I want to thank Representatives Friske and Bies for working on this legislation.

Members, I wholeheartedly support these two bills. As I have traveled across the state, I have heard repeatedly from active and retired law enforcement officers who are concerned with the failure of many of their community police agencies to implement what is commonly referred to as HR-218—the Federal Law Enforcement Officers Safety Act of 2004. This federal law establishes guidelines by which experienced retired law enforcement officers who maintain firearms training to obtain certification that would allow those officers to carry firearms of the type they used while on the force. HR-218 permits local agencies to apply their local standards to issue the certifications to retired officers, but the federal law does not—and without funding cannot—impose a command that it be done. Though it creates clear standards for issuing a certificate, federal law does not micromanage the mechanisms for issuing a certificate.

What AB 877 would do, in large degree, is codify the federal law in state law and provide clear direction as to how these certificates can be issued.

There has been some debate about whether state legislation is absolutely necessary to enable local law enforcement to issue the certifications that would allow those experienced retired law enforcement to carry. Some have argued that HR-218 does not permit a Wisconsin law enforcement agency to certify retired Wisconsin law enforcement. Some have argued that they may, so why have the legislation at all?

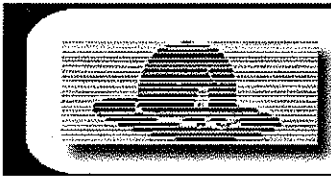
I believe that the meaning of HR-218 is clear—law enforcement *can* issue certifications without AB 877. Many local law enforcement agencies, like the Dane County Sheriff's Office, have issued certifications. I want to repeat that – agencies *can* and *have* issued certification cards – and they have done so lawfully.



February 27, 2008

I believe legislation is needed to give a greater effect to HR 218 in Wisconsin in three ways. First, by codifying the language set forth in HR 218 in our statutes, any ambiguity as to the authority to issue certifications is removed. If enacted, those who currently believe – and I believe they do so wrongly – that HR-218 does not authorize them to issue certifications will need to look no further than the state statutes for direction. Those who need a roadmap for how to issue certificates will have one, in state law. Second, the bill provides immunity to issuing agencies to take away any liability concerns that may currently exist. Some agencies, likely under the advice of risk averse corporation counsels or risk management officials, have declined to implement HR-218 because they fear liability could flow from the issuance of a certificate pursuant to federal law. By limiting liability, this excuse is removed. Those who properly apply the law will not have to worry about lawsuits. Finally, the bill provides a mechanism to ensure that federal officers who served in the state have the ability to have credentials issued. In sum, if this legislation is passed, I expect much greater implementation of HR-218—and that means a safer Wisconsin.





## **Wisconsin Troopers' Association**

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### **Testimony relating to AB 877**

#### **Assembly Committee on Criminal Justice**

**Annie Early, on behalf of the Wisconsin Troopers' Association (WTA) Board**

**February 27, 2008**

Good afternoon; thank you Chair Kleefisch and committee members for holding this public hearing. My name is Annie Early; I have worked on behalf of the Wisconsin Troopers' Association (WTA) for more than six years as a lobbyist and public relations advisor.

The WTA is not opposed to the concept of concealed carry for active and retired officers as outlined in AB 877; in fact, our organization stood with President George W. Bush when he signed H.R. 218 into law in August 2004. However, on behalf of the 500 members of the Wisconsin Troopers' Association, we oppose this version of the bill.

While we greatly appreciate the leadership of Rep. Friske, Rep. Bies, Attorney General J.B. Van Hollen and other elected officials who have worked diligently in this effort, we believe Wisconsin should be a "shall" issue rather than a "may" issue state.

Policy put in place today ought to be based on provisions that allow active officers and retirees to carry concealed weapons rather than the personal preference of an elected or appointed administrator, sheriff or chief.

Administrators could implement policy today, but a simple change in leadership could entirely undermine that established policy and withdraw an officers' ability to carry. It will not only affect the officers currently working under an agency, but also those officers who have already retired and had previously been allowed to carry. All law enforcement officers should be able to have the opportunity to qualify – and I emphasize that they would need to qualify – under the criteria established by each individual agency.

How will this affect morale if elected officers can change a reputable policy, based on federal law, on a whim? The WTA feels strongly that this is not a good approach to implementing H.R. 218.

We fully support the federal law, which details all the requirements; we also support the indemnifications detailed in this bill draft. Simply change the "may" to "shall" and the WTA would support this bill.

Thank you for the opportunity to voice concerns on behalf of the Troopers' Association. I would be happy to take any questions you may have or pass them along to our board members.

